IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

Crl.MC.No. 163 of 2005(A)

PETITIONER:

MRS. LIZZY PAULOSE, W/O. P.J. PAULOSE,
OLICKAL, HOUSE NO.8/231-A, THENGODE,
KAKKANADU, KOCHI-682 030.

BY ADV. SRI. V.K. MOHANAN,
SMT. ARYA MATHEW

RESPONDENTS:

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1. POORNIMA MARIA KURIEN,
W/O. DR.RENJU JOHN MATHEW, AND
D/O. SRI.BEJOY VARGHESE, AGED 24 YEARS,
PUTHENPURACKAL, SHENOY'S ROAD,
KALOOR, KOCHI-17.

2. DR. RENJU JOHN MATHEW,
S/O. JOHN MATHEW, AGED ABOUT 34 YEARS,
COLNE MEDICAL CENTRE, COLNE ROAD SURGERY,
40 STATION ROAD, BRIGHTLING C,
ESSEX - CO 7 ODT, UNITED KINGDOM.

3. JOHN MATHEW, SPO MATHEW,
AGED ABOUT 65 YEARS, ELLUM VILLA HOUSE,
PATHANAPURAM P.O., KOLLAM DISTRICT.

4. MARIAMMA JOHN, W/O. JOHN MATHEW,
AGED ABOUT 57 YEARS, ELLUM VILLA HOUSE,
PATHANAPURAM P.O., KOLLAM DISTRICT.

5. SANGIT GEORGE, W/O. JOSE GEORGE
AGED ABOUT 30 YEARS, FEDERAL GARDENS,
S-93, ALUVA.

6. JOSE GEORGE, S/O. GEORGE
AGED ABOUT 35 YEARS, FEDERAL GARDENS,
S-93, ALUVA.

7. THE STATE OF KERALA, REPRESENTED
THROUGH THE STATION HOUSE OFFICER,
ERNAKULAM TOWN NORTH POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKUALM.

BY ADV. SRI.S.KRISHNAMOORTHY
SRI. PUZHAKKARA MUHAMMED, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 13/12/2006, ALONG WITH Cr.M.C NO.329 OF 2005,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. M.C. Nos. 163 & 329 OF 2005

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Dated this the 13th day of December 2006

O R D E R

The petitioner in Crl. M.C. No. 163/2005 is the 4th accused who is the maternal aunt of the 1st accused/ husband of the complainant. The accused in Crl. M.C. 329/2005 are the parents, sister-in-law and the husband of the sister in law of the complainant. The allegations are under sections 498 (A), 313 r/w 120(B) IPC. The crime was registered on the basis of the private complaint filed which was forwarded to the police under section 156(3) Cr.P.C. It is the case of the petitioner in Crl. M.C No. 329/2005 that entire allegations in the complaint are false. It is pointed out that in the complaint, which is a very detailed one, there is no specific allegations against the petitioners as such. It is further stressed that the complainant/second respondent and the 1st accused immediately after the marriage were living in Chennai for sometime and thereafter in U.K. There are no accusations at all for the complainant against the rest of the accused other than the first accused.

2. It is pointed out by the counsel for the petitioners in Crl. M.C. No. 329/05 that it is evident in the complaint, the copy of which is Annexure 3, that the petitioners 1 and 2/ Accused 2 and 3, the parents were settled at Al Ain in UAE and they came to India only a week before the marriage. I find that in Ext.A1 complaint, which is a complaint consisting of 11 pages and full with allegations against the first accused, there is only a casual reference against the rest of the accused other than A1. It is mentioned that after few days of the marriage 1st accused and the complainant went to Chennai and were residing therein and subsequently they left for U.K. It is seen from the recitals in the complaint that they did not come back together from U.K also. On the occasions when she came back alone and resided with her parents the complainant realised that the only reason for the frequent quarrel initiated by the 1st accused was on account of the ill-advice of the rest of the accused. It is stated that when the couple were residing in Chennai accused 2 to 6 used to have conversation with A1 over telephone and used to give ill-advise and hence collective conspiracy is alleged. It is alleged that the rest of the accused instigated the 1st accused and hence all are

liable and responsible. Ofcourse, I find that the complaint contains very serious allegations of cruelty against the 1st accused. But it is seen from the complaint that there is no averment that the complainant and A1 ever resided with the parents of the 1st accused at any point of time or for any period sufficient enough to have occasions to instigate the 1st accused to perpetrate the cruelty alleged.

3. It appears that there is no contribution on the part of the rest of the accused in the incidents narrated. It is evident from the detailed recitals in the complaint that accused 2 and 6 have been implicated just to make them undergo the ordeal of investigation and trial.

In the circumstances, I find that the proceedings initiated against accused 2 to 6 amounts an abuse of process of court and hence proceedings in Crime No. 461/2004 of Ernakulam Town North Police Station against accused 2 to 6 liable to be quashed and is herewith quashed. The Crl. M.Cs are allowed.

K.R. UDAYABHANU, JUDGE.

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